

AN ACT

relating to the age until which juveniles placed on determinate sentence probation may be on probation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.0412, Family Code, is amended to read as follows:

Sec. 51.0412. JURISDICTION OVER INCOMPLETE PROCEEDINGS.

The court retains jurisdiction over a person, without regard to the age of the person, who is a respondent in an adjudication proceeding, a disposition proceeding, a proceeding to modify disposition, or a motion for transfer of determinate sentence probation to an appropriate district court if:

(1) the petition or ~~or~~ motion to modify ~~or motion for transfer~~ was filed while the respondent was younger than 18 years of age or the motion for transfer was filed while the respondent was younger than 19 years of age;

(2) the proceeding is not complete before the respondent becomes 18 or 19 years of age, as applicable; and

(3) the court enters a finding in the proceeding that the prosecuting attorney exercised due diligence in an attempt to complete the proceeding before the respondent became 18 or 19 years of age, as applicable.

SECTION 2. Subsection (q), Section 54.04, Family Code, is amended to read as follows:

(q) If a court or jury sentences a child to commitment in the Texas Youth Commission under Subsection (d)(3) for a term of not more than 10 years, the court or jury may place the child on probation under Subsection (d)(1) as an alternative to making the disposition under Subsection (d)(3). The court shall prescribe the period of probation ordered under this subsection for a term of not more than 10 years. The court may, before the sentence of probation expires, extend the probationary period under Section 54.05, except that the sentence of probation and any extension may not exceed 10 years. The court may, before the child's 19th [~~18th~~] birthday, discharge the child from the sentence of probation. If a sentence of probation ordered under this subsection and any extension of probation ordered under Section 54.05 will continue after the child's 19th [~~18th~~] birthday, the court shall discharge the child from the sentence of probation on the child's 19th [~~18th~~] birthday unless the court transfers the child to an appropriate district court under Section 54.051.

SECTION 3. Subsection (i), Section 54.0405, Family Code, is amended to read as follows:

(i) A court that requires as a condition of probation that a child attend psychological counseling under Subsection (a) may, before the date the probation period ends, extend the probation for any additional period necessary to complete the required counseling as determined by the treatment provider, except that the probation may not be extended to a date after the date of the child's 18th birthday, or 19th birthday if the child is placed on determinate sentence probation under Section 54.04(q).

SECTION 4. Subsection (h), Section 54.041, Family Code, is amended to read as follows:

(h) If the juvenile court places the child on probation in a determinate sentence proceeding initiated under Section 53.045 and transfers supervision on the child's 19th [~~18th~~] birthday to a district court for placement on community supervision, the district court shall require the payment of any unpaid restitution as a condition of the community supervision. The liability of the child's parent for restitution may not be extended by transfer to a district court for supervision.

SECTION 5. Subsections (a) and (b), Section 54.05, Family Code, are amended to read as follows:

(a) Any disposition, except a commitment to the Texas Youth Commission, may be modified by the juvenile court as provided in this section until:

(1) the child reaches:

(A) the child's [~~his~~] 18th birthday; or

(B) the child's 19th birthday, if the child was placed on determinate sentence probation under Section 54.04(q); or

(2) the child is earlier discharged by the court or operation of law.

(b) Except for a commitment to the Texas Youth Commission or a placement on determinate sentence probation under Section 54.04(q), all dispositions automatically terminate when the child reaches the child's [~~his~~] 18th birthday.

SECTION 6. Subsections (a) through (d) and (e-2), Section 54.051, Family Code, are amended to read as follows:

(a) On motion of the state concerning a child who is placed on probation under Section 54.04(q) for a period, including any extension ordered under Section 54.05, that will continue after the child's 19th [~~18th~~] birthday, the juvenile court shall hold a hearing to determine whether to transfer the child to an appropriate district court or discharge the child from the sentence of probation.

(b) The hearing must be conducted before the child's 19th [~~18th~~] birthday and in the same manner as a hearing to modify disposition under Section 54.05.

(c) If, after a hearing, the court determines to discharge the child, the court shall specify a date on or before the child's 19th [~~18th~~] birthday to discharge the child from the sentence of probation.

(d) If, after a hearing, the court determines to transfer the child, the court shall transfer the child to an appropriate district court on the child's 19th [~~18th~~] birthday.

(e-2) If a child who is placed on community supervision under this section violates a condition of that supervision or if the child violated a condition of probation ordered under Section 54.04(q) and that probation violation was not discovered by the state before the child's 19th [~~18th~~] birthday, the district court shall dispose of the violation of community supervision or probation, as appropriate, in the same manner as if the court had originally exercised jurisdiction over the case. If the judge revokes community supervision, the judge may reduce the prison sentence to any length without regard to the minimum term imposed by

1 Section 23(a), Article 42.12, Code of Criminal Procedure.

2       SECTION 7. Except as otherwise provided by this Act, the  
3 changes in law made by this Act in amending a provision of Title 3,  
4 Family Code, apply only to conduct that violates a penal law and  
5 that occurs on or after the effective date of this Act. Conduct  
6 that violates a penal law and that occurs before the effective date  
7 of this Act is covered by the law in effect at the time the conduct  
8 occurred, and the former law is continued in effect for that  
9 purpose. For the purposes of this section, conduct violating a  
10 penal law occurs before the effective date of this Act if every  
11 element of the violation occurred before that date.

12       SECTION 8. This Act takes effect September 1, 2011.

S.B. No. 1208

Stephen E. Edge  
President of the Senate

Joe Straus  
Speaker of the House

I hereby certify that S.B. No. 1208 passed the Senate on May 4, 2011, by the following vote: Yeas 31, Nays 0.

Patsy Spaw  
Secretary of the Senate

I hereby certify that S.B. No. 1208 passed the House on May 20, 2011, by the following vote: Yeas 149, Nays 0, one present not voting.

Robert Haney  
Chief Clerk of the House

Approved:

17 JUN '11  
Date

RICK PERRY  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
4pm O'CLOCK

Ben McArthur  
JUN 17 2011  
Secretary of State